

# LOS ANGELES BAR BULLETIN



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# LOS ANGELES BAR BULLETIN

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FEBRUARY, 1944

No. 6

## OFFICERS

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## A MATTER OF INTELLIGENCE

THERE are those among us who, in time of war, would go so far as to abolish national elections. Fortunately, that event will not come to pass, at least this year and probably not in our time. Just the other day the President himself pointed out that such action would violate the Constitution. But the fact that elections are to be held this year while the nation is engaged in a world war serves to emphasize the need for a singleness of purpose on the part of all who are qualified to vote, whether in the armed services or at home.

It is proper that there should be contending candidates for all elective offices, from President to dog-catcher, whether partisan or nonpartisan, even unto the smallest township; else there can be no intelligent choice of the men or women most fitted for those offices. The evils which follow from the theory that there is one "indispensable man" in any party or even in the nation have long been demonstrated in the countries which compose the Axis.

The recent action of the Legislature of this State in combining the presidential and general primaries and fixing May 16 as primary election day has focused attention on the need for candidates fully qualified to serve as our elected representatives. There must be intelligent action on the part of all of us in making our choice of the right men for the right jobs, regardless of their partisan affiliations, so that there may be unity in this nation now and when the war is over, whenever that time comes. P. McC.

## ON THE FIGHTING FRONT

The Roll of Honor continues to grow and now contains the names of 307 members, including those few who have been discharged and returned to civilian life. The names recently added are:

Hall, Marshall D., Lt. Col., USA  
Laybourne, Everett B., Pvt., USA  
Nelson, Gilbert F., Lt. (j.g.), USNR

Porter, Andrew O., Lt. (j.g.), USNR  
Woodhead, Frank W., Lt. (j.g.), USNR  
Connell, Thomas, Lt. (j.g.), USNR

## JUDICIAL ELECTION

By February 11 all twenty incumbent judges of the Superior Court for this County whose terms expire this year had declared their intention to run for reelection in the primaries on May 16, 1944. Those who will be unopposed are Judges Robert H. Scott, Georgia P. Bullock, Henry M. Willis, W. Turney Fox, Ingall W. Bull, Edward R. Brand, A. A. Scott, Clement D. Nye, and Alfred L. Bartlett. The remaining eleven will face contests; those who have announced their intentions to run are:

*Office 1.* Charles S. Burnell, incumbent; Delamere F. McCloskey; Irving M. Smith.

*Office 2.* Walter S. Gates, incumbent; Paul D. McCormick.

*Office 3.* Ruben S. Schmidt, incumbent; Marshall Abbott.

*Office 5.* Charles E. Haas, incumbent; Dennis G. Donohue.

*Office 8.* Carl A. Stutsman, incumbent; Dailey S. Stafford.

*Office 10.* Leslie E. Still, incumbent; Earl E. Howard.

*Office 14.* Benjamin J. Scheinman, incumbent; H. C. Greenlee; Robt. S. McLaughlin.

*Office 15.* Jess E. Stephens, incumbent; Nathaniel P. Willis.

*Office 17.* Stanley Mosk, incumbent; LeRoy Dawson; Ida May Adams.

*Office 18.* Harold B. Landreth, incumbent; Frank I. Hogan.

*Office 19.* Harold B. Jeffrey, incumbent; Benjamin M. Kochman.

As with all other candidates in the May election, nominating papers must be filed by all candidates for these offices between February 16 and March 7, 1944. Under the recent amendment to the by-laws of the Association, the Board of Trustees will determine shortly after March 7 whether the Committee on Judicial Candidates and Campaigns shall conduct a plebescite on the several candidates.

## A WORD FROM THE PRESIDENT

SOCRATES described the supposed metamorphosis of one of our profession, as follows:

"... from the first he has practiced deception and retaliation, and has become stunted and warped. And so he has passed out of youth into manhood, having no soundness in him; and is, as he thinks, a master in wisdom. Such is the lawyer, Theodorus."\*

Two thousand years later, *Poor Richard's Almanac* first gave expression to an American view:

"God works wonders now and then;  
Behold! A lawyer, an honest man."

An *English* proverb puts it: The Devil makes his Christmas pie of lawyers' tongues.

The same thought has been expressed in other languages—

A *Russian* proverb says: When God wanted to chastise mankind He invented lawyers.

*Chinese*: Going to law is losing a cow for the sake of a cat.

*French*: No lawyer will ever go to Heaven so long as there is room for more in Hell.

*German*: Lawyers and soldiers are the Devil's playmates.

*Italian*: A bad agreement is better than a good lawyer.

*Spanish*: A peasant between two lawyers is like a fish between two cats.

*Danish*: "Virtue in the middle," said the Devil, as he sat down between two lawyers.

These proverbial sayings remind us of the universality of age-old criticisms directed at those of our calling. They remind us also that these gibes of yesterday challenge us today.

Over the entrance to the Supreme Court of the United States is boldly graven the democratic ideal—the goal of our profession: "Equal Justice under Law."

Never before in history have the people urged us toward that goal more enthusiastically, more insistently, than now. As the

\*Plato: *The Theaetetus*.

organized bar labors onward there are still some, to be sure, with a cynicism known even to the days of Socrates, who say it cannot be done because our ideal is unattainable. But the great majority—who hope and dream and are eager to work for a much nearer realization of equal justice under law—reply:

*"Ah, but a man's reach should exceed his grasp,  
Or what's a heaven for"*

As this ghastly war grinds on, there will come an ever clearer realization that, of all who inhabit the earth, the English-speaking peoples alone have developed a reasonably predictable system of individual justice under law—a system that prizes the dignity of man—a system whereby to measure, *objectively*, the lawfulness of human conduct. And to the extent that we cherish this system, our national policy and national purpose, both in the war today and in the peace of tomorrow, must be to preserve and extend the supremacy of law—and thus make secure our individual freedom under law.

More than anything else we know or possess, the peoples of the world need and long for our system of individual justice. Thus America's foremost claim to world leadership must be founded upon the fact that we have developed both the principle and the practice of individual freedom under law. And who but those of the legal profession—lawyers trained in the ideals, the traditions, the technique of the common law—can give it to them.

If our profession is to rise to this grand opportunity, we must heed the admonition of Judge Augustus N. Hand of the Second Circuit, who warns us that a lawyer's greatest danger is in doing things for his client that he would never think of doing for himself, and in becoming the client's minion rather than his guide. Our profession, Judge Hand declared, "contains the most high-minded members of the community. Where it fails is in not sufficiently recruiting public life from its ranks and in becoming too frequently involved in the enterprises of clients . . . ."

Now as I pass the gavel to Harry McClean, I wish to thank most heartily all of my fellow-members who have given so freely of their service to the Bar Association during my administration:

The Past Presidents' Committee, for adding to our rolls almost two hundred members during the past year, for supplementing our revenues through provision for sustaining members (who already number more than 200), and for establishing the Los Angeles Bar Association Endowment;

The Bar Association Round Table, for bringing us that timely series of lectures on the practice before various administrative agencies in wartime, and for the current income tax course;

The Bar Bulletin Committee, for publishing our excellent monthly bulletin; and the Reportorial Committee, for regularly and efficiently reporting news of Bar Association activities;

The Committees on the Judiciary, on Judicial Selection and Tenure, on Judicial Candidates and Campaigns, to Cooperate with the Judges of the Superior Court, to Cooperate with the Judges of the Municipal Court, on Juvenile Crime Prevention, on Traffic Courts, on Small Claims Courts, on Costs Incident to Court Proceedings—for their continuing efforts toward improvement of judicial administration in the courts of Los Angeles County;

The Committees on Legal Ethics, on Membership, on Lawyers in Public Employ, on Post-War Planning, on Lawyers Reference Service, on Duties of Citizenship, on Bill of Rights, on Legislation, on Pleading and Practice, on Arbitration, on Unlawful Practice of the Law, on Municipal Court Reporters Examination, on Civil Service Examinations, on Law Library Building, on Coordination with the American Bar Association, on Coordination with the State Bar, on Coordination with Affiliated Associations, and a number of special committees appointed during the year to perform single tasks—for their splendid service to the organized bar;

Our delegates to the 1943 State Bar Conference, for their careful consideration of the numerous proposals for legislative enactment which were submitted for their study;

The Committee on Servicemen's Legal Aid, on Personnel Procurement for War Service, on Legal Aid Work, on Federal Court Criminal Defense, and to Aid Public Defenders—for invaluable legal assistance to servicemen, their dependents, and the indigent;



The Chairman, Vice-Chairman and Secretary-Treasurer of the Sections on Corporation, Banking and Mercantile Law; on Criminal Law; on Insurance; on Mineral Law; on Municipal and Public Utility Law; on Patent, Trademark and Copyright Law; on Probate, Real Property and Trusts; on Taxation; and on Torts, Persons and Domestic Relations—for their signal contribution in organizing these nine Sections and getting their work under way;

The officers and Trustees of the Association—for the year-long benefit of their sound judgment and wise guidance, and their untold service in the administration of the affairs of the Association; and

The indispensable Committee of One, Executive Secretary Louis Elkins,—mainspring and spark plug of our Bar Association—and his loyal and efficient staff, to whom I give inexpressible thanks and the same unbounded praise and credit that each succeeding head of this Association feels proud to accord. As Past President Herbert Freston well said: "Lou Elkins keeps the Association wheels continually moving in that direction which common sense and a wealth of experience have shown to be right." [18 LOS ANGELES BAR BULLETIN 153 (1943).]

The magnificent spirit of unselfishness and devotion with which my fellow-lawyers and the members of the judiciary labor to further the organized efforts of our profession has brought the greatest of many satisfactions I have experienced during my term as President.

I am sure you will give Harry McClean the same indispensable support you have given me. Those of us who continue in the work of the profession through wartime must carry full responsibility for the organized bar, looking forward to the day when our members now absent with the armed forces will return with broadened perspective and new ideas to invigorate our labors.

I leave the office more certain than ever that the role of the legal profession in the future depends upon the extent to which the individual lawyer lends active aid to the work of his Bar Association.

*Wm. C. Mathes*



## ENDOWMENT CORPORATION COMPLETED. RICHARD DILLON ELECTED PRESIDENT.

ON JANUARY 25, 1944, the directors of the Los Angeles Bar Association Endowment, a non-profit corporation, held their first meeting, adopted by-laws and elected officers, an executive committee of five, and fixed the terms of the fifteen directors.

Thus came into legal existence an organization formed for the purpose of receiving gifts, donations and bequests to be used to advance the science of jurisprudence, encourage a thorough and continual legal education, to assure adequate legal service for indigent people, and for the other purposes stated in the articles.

The officers elected, to serve until their successors are chosen, are as follows:

Richard J. Dillon, President.  
Wm. C. Mathes, Vice President.  
Harry J. McClean, Vice President.  
Alexander Macdonald, Vice President.  
Alex W. Davis, Secretary.  
Ewell D. Moore, Treasurer.

The following members of the Board of Directors were appointed members of the Executive Committee:

Norman A. Bailie.  
Kemper Campbell.  
Frank B. Belcher.  
John C. Macfarland, and  
Lloyd Wright.

The fifteen directors, all past presidents of the Los Angeles Bar Association, and their respective terms of office, determined by lot, are:

One Year—Norman A. Bailie, Kemper Campbell,  
Robert T. Jennings.

Two Years—Hubert T. Morrow, Irving M. Walker,  
George M. Breslin.

Three Years—Joe Crider, Jr., Allen W. Ashburn, Loyd Wright.

Four Years—John C. Macfarland, Frank B. Belcher, Oscar Lawler.

Five Years—Edward D. Lyman, Richard J. Dillon, Herbert Freston.

The members of the corporation are the persons who from time to time constitute the membership of the Los Angeles Bar Association. There are no dues incident to membership, and no member is subject to any assessment or liability by reason of membership. The Executive Committee of five is given the power actively to conduct the affairs of the corporation, subject to the approval of the Board of Directors.

Gifts, donations, bequests and devises may be given directly to the Endowment Corporation with directions that the principal or income therefrom shall be used for specific purposes, or the principal may be given to some other person, corporation or trustee with instructions that the income shall either be paid to the Endowment Corporation or disbursed in accordance with the instructions of the Board of Directors; provided all such gifts, etc., shall be in accord with the purposes specified in the Articles of Incorporation.

#### **Kemper Campbell First Donor**

Kemper Campbell, former president of the Los Angeles Bar Association, and a director of the Endowment Corporation, has made a gift of \$1000.00. In a letter addressed to President Wm. C. Mathes of the Los Angeles Bar Association, Mr. Campbell said:

"The primary reason for the modest donation which I intend to make is the gratitude that I feel for the honor of serving as president of one of the largest and most active bar associations in the United States.

"Those were pioneer times in the history of the organized bar, and I look back with satisfaction upon the struggles and yearnings of those years. We suc-

ceeded in establishing an integrated and self-governing bar and an efficient system of bar discipline. We provided an adequate number of judges and substantially increased judicial salaries throughout the state. Thousands of honest, idealistic lawyers have joined in the work of the State Bar and the numerous local organizations, so that today we have the means, the spirit and the personnel to go forward to accomplishments which were only dreams in my day.

"I am not unaware of the fact that in the minds of the majority of the present Bar Association membership, I, and most of the other past presidents, are old men. I have therefore the instinctive desire not only to repay a gracious favor, but also to join in and support the activities of the Association in a manner most convenient and best adapted to the sedentary and contemplative habits of mature years.

"Again, I am glad of the opportunity to join, as one of its Board of Directors, an organization of members of the Bar with whom I have been so intimately associated for so many years and for each of whom I have the highest respect and deepest affection, and particularly to join these old associates in the high purpose of perpetuating and advancing the ideals of our beloved profession.

"I view with the same alarm that is current among lawyers the encroachments of laymen upon the field in which we have been specially trained to serve, but there may be a difference of opinion as to the remedies, and I welcome the opportunity to promote research and debate upon this serious question. In my humble judgment, administrative tribunals and various lay substitutes are the results of the inadequacies of the judicial system to meet the necessities of a complicated and fast-moving society. Our continual carping against lay-tribunals and extrajudicial means will get us exactly nowhere. Administration of justice which is dependent upon a system of voluminous rules born of innumerable prior adjudications and statutes demands legal learning and expertness of an increasingly high order—particu-

larly on the bench. There are outstanding exceptions, but on the whole the average quality of our judges has steadily declined. It is not a question of a choice between gubernatorial appointment and popular election. Approximately ninety per cent of all the judges now serving in Los Angeles County were in the first instance appointed by a governor. No cure for this unfortunate state of judicial affairs can be had without the aid of a sound tradition toward the upbuilding of which the Endowment Fund should by educational efforts make valued contribution."

Members of the Association who wish to make gifts to the Endowment or to advise their clients to do so, may communicate with the officers or the Executive Committee for any information concerning the Endowment or the form in which such gifts may be made.

E. D. M.

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## Do You Wish to Register?

- The Los Angeles Bar Association maintains the Lawyer Reference Service as a public service to enable laymen who are not acquainted with a member of the profession to choose a lawyer willing to serve them for a fee within their means.
- Registration to receive references under the Service is open to all reputable members in good standing of the State Bar who are engaged in active practice in Los Angeles County.
- The annual registration fee to all registrants is \$3. All registration fees are spent in maintaining, operating and publicizing the Service.

If you desire to register, write or telephone—

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**1124 Rowan Building, 458 South Spring Street**

**Telephone: TUCKER 8118**

## CONSTITUTION AND BY-LAWS OF THE LOS ANGELES BAR ASSOCIATION

[Since their adoption in 1930, the Constitution and By-Laws of the Association have been amended in several particulars. The latest amendments were adopted at the meetings in November and December, 1943. (See BAR BULLETIN for November, 1943.) For the convenience of all concerned, the Constitution as amended, is printed in full in this issue. The By-Laws, as amended, will be printed next month.—Ed.]

### CONSTITUTION

Adopted November 19, 1930  
(As Amended to January 1, 1944)

#### ARTICLE I.

##### NAME OF ASSOCIATION

This Association shall be called the "Los ANGELES BAR ASSOCIATION."

#### ARTICLE II.

##### OBJECTS

*Section 1.* This Association is established to advance the science of jurisprudence; to promote the administration of justice; to encourage a thorough legal education; to maintain the honor and dignity of the profession of the law and to cultivate social intercourse among its members.

*Section 2.* It shall not take any part in partisan politics nor recommend any person for any political office other than a judicial office. It may recommend persons for election or appointment to judicial office and take part in campaigns for such election to such offices in such manner as may be provided by the By-Laws.

#### ARTICLE III.

##### MEMBERSHIP

*Section 1. Membership.* Membership of the Association shall consist of active members, honorary members, non-resident members and affiliated members, as those terms are hereinafter defined.

*Section 2. Active Members.* All persons admitted to practice before the Supreme Court of the State of California in good standing and all judges of courts of record in Los Angeles County are eligible to apply for active membership in this Association.

*Section 2(A). Sustaining Members.* Any member of the Association may become a sustaining member upon payment of \$25 dues during any calendar year, which sum shall include his regular membership dues and a subscription to the BAR BULLETIN for such year. A sustaining member may have his membership transferred to any other eligible membership classification,

by filing a written request therefor with the Secretary of the Association. (New section added December 15, 1943.)

*Section 3. Honorary Members.* The Judges of the United States District Court for the Southern District of California, the Judges of the Supreme Court of California, and the Judges of the Second District of the District Court of Appeal of California, during the time that they shall respectively hold office, shall be honorary members of this Association. Persons distinguished for public service or eminence in the law may be elected to honorary membership by vote of the Association. Honorary members shall not pay any admission fee or dues and shall not have a vote nor be eligible to be officers of the Association, but shall have all other rights of membership.

*Section 4. Non-Resident Members.* Any person who is eligible under the provisions of the Constitution of the Association to apply for membership therein, as an active member who maintains his principal office outside of the corporate limits of the City of Los Angeles and who resides in a city, town or district in which there is no bar association, or no bar association which has become an affiliated association, may be admitted to membership in the Los Angeles Bar Association as a non-resident member upon being passed for membership by the Membership Committee of this Association. Each non-resident member shall be entitled to all the rights and privileges of the Association.

*Section 5. Affiliated Members.* Persons who are members of affiliated associations may become affiliated members of this Association, as provided in the By-Laws. They shall be entitled to all rights and privileges of this Association. The method by which a bar association may become an affiliated association and the amount of any admission fee or dues of affiliated members, shall be fixed by the By-Laws.

*Section 6. Admission.* The method of admission to membership shall be provided by the By-Laws of the Association.

*Section 7. Suspension and Expulsion.* The By-Laws may provide for the censure, suspension or expulsion of a member for cause after hearing, or for suspension for non-payment of dues. Any member suspended or expelled may be reinstated by vote of a majority of the members of the Board of Trustees.

#### ARTICLE IV.

#### ADMISSION FEES AND DUES

The admission fee and the annual dues shall be fixed by the By-Laws.

#### ARTICLE IV(A)

#### ENDOWMENT

The Board of Trustees may adopt any convenient means whereby gifts, donations, bequests and devises from members and

others, to be used in furthering the activities and objects of the Association may be received, held, administered and disposed of; and to such end the Board of Trustees may cause to be organized on behalf of the members of the Association, pursuant to the provisions of Title XII, Part 4, Division First, of the Civil Code of the State of California, a non-profit endowment corporation bearing the name "Los Angeles Bar Association Endowment" or other suitable name. (New Section added December 15, 1943.)

#### ARTICLE V.

#### OFFICERS AND TRUSTEES

*Section 1. Officers.* The Association shall have the following officers: A president, a senior vice-president, a junior vice-president, a secretary and a treasurer.

*Section 2. Board of Trustees.* The Association shall have a Board of Trustees made up of the president, the senior vice-president, the junior vice-president, the chairman of the Junior Barristers and eight additional trustees elected from the active members of this Association; and if there be one or more affiliated associations, one additional trustee from each affiliated association, not to exceed four in all, and not more than one trustee to be elected from the membership of any one affiliated association. Any such trustee so elected from an affiliated association must be an affiliated member of this Association. The Board of Trustees shall at their first meeting after their installation appoint a secretary and a treasurer and such other officers as the By-Laws may require. These officers shall have such qualifications as the Board may from time to time determine and, at the option of the Board, the office of treasurer and secretary may be held by one person. (Amended February 15, 1940.)

*Section 3. Election and Term of Office.* The president, the senior vice-president and the junior vice-president shall be elected by the members at the annual election of the Association, and shall hold office for one year and until the installation of their successors. The election of the chairman of the Junior Barristers shall be provided for in the By-Laws. The installation of officers and trustees shall take place at the annual meeting of members. (Amended February 15, 1940.)

*Section 4. Election and Term of Trustees.* Officers and trustees of the Association in office at the time of the adoption of this Constitution shall continue in office for the remainder of the terms for which they have been elected and until their successors are installed.

At the next annual election subsequent to the adoption of this Constitution there shall be elected the required number of trustees from the affiliated members, if any, and such additional number of trustees from the active members of this Association



in addition to those who continue in office, as provided herein, as will make eight trustees from the active members of this Association besides the president and the senior and junior vice-presidents.

If there be only one affiliated member elected trustee at such election, then he shall serve for one year; if there be two affiliated members elected trustee at such election, then one shall serve for one year and one for two years; if there be three affiliated members elected trustee at such election, then two shall serve for one year and one for two years; if there be four affiliated members elected trustee at such election, then two shall serve for one year and two for two years.

At the next meeting of the Board of Trustees after their installation the said trustees elected from such affiliated members shall by lot determine those who are to serve for one year and those who are to serve for two years.

The trustees elected at such election from the active members of this Association shall also by lot select to serve for two years such number as shall be required to provide four trustees from among the active members of this Association serving for two years and four serving for one year.

At all subsequent elections the required number, not exceeding two trustees, shall be elected from among affiliated members, if any, and four from among the active members of this Association, all to serve for two years. At all times eight of such additional trustees shall be active members of this Association and the required number, not exceeding four, shall be affiliated members.

*Section 5. Vacancies.* Vacancies in any office, or in the position of trustee, shall be filled by the Board of Trustees, and each officer or trustee so appointed shall hold office until the election and installation of his successor.

#### ARTICLE VI. ELECTIONS

The Association shall hold a regular annual election for the election of officers and trustees. The election shall be held or completed in January of each year. The time and manner of holding the election shall be provided for by the By-Laws.

#### ARTICLE VII. MEETINGS OF MEMBERS

*Section 1. Annual Meeting.* The Association shall hold an annual meeting of members. The meeting shall be held in the City of Los Angeles on a date to be fixed by the By-Laws.

*Section 2. Other Meetings.* The By-Laws may make provision for regular monthly meetings of members and for special meetings of members.

*Section 3.* The By-Laws shall make provision for fixing the

time and place of holding meetings; for giving notice of meetings; for calling special meetings; for quorums at meetings; for the rules of order, and for other proper matters.

#### ARTICLE VIII.

##### DUTIES OF BOARD OF TRUSTEES AND OFFICERS

*Section 1. Board of Trustees.* The Board of Trustees shall manage the affairs of the Association, subject to and in accordance with the Constitution and By-Laws of the Association, and shall perform such other duties as shall be provided by the By-Laws. The By-Laws shall provide for the number constituting a quorum.

*Section 2. Officers.* The officers shall have such powers and perform such duties as shall be provided by the By-Laws.

#### ARTICLE IX.

##### CODE OF ETHICS

The Code of Ethics of the American Bar Association and all amendments hereafter adopted thereto shall be the Code of Ethics of this Association.

#### ARTICLE X.

##### BY-LAWS

The Association may adopt a code of By-Laws in the same manner in which it may adopt amendments to this Constitution. The By-Laws may provide the manner in which the By-Laws may thereafter be amended.

#### ARTICLE XI.

##### AMENDMENTS

This Constitution may be amended at any annual, monthly or special meeting of the Association by a two-thirds vote of all members entitled to vote present at the meeting and voting, provided the proposed amendment, subscribed by ten members in good standing, is submitted at a previous meeting of the Association, with written notice that it will be presented for adoption at a named succeeding meeting of the Association, and provided a copy of the amendment with notice of the time that it will be presented for adoption, is mailed to all members of the Association entitled to vote at least five days before the date of said meeting. It shall be the duty of the Secretary to give such notice of any proposed amendment, and his certificate that such notice has been so mailed shall be conclusive evidence thereof. Upon the consideration of any proposed amendment to this Constitution at any meeting, amendments thereto on the same subject may be offered, voted upon and adopted at the same meeting without previous notice.

#### ARTICLE XII.

This Constitution shall take effect when adopted.

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## SUSTAINING MEMBERS

THE new membership classification of Sustaining Members was added by an amendment to the by-laws in November, 1943. In commenting on this amendment President Mathes said in the November issue of the BULLETIN:

"With approximately twenty per cent of our normal membership now serving in the armed forces—their dues to the Association remitted for the duration—we must look to ways and means of supplementing present revenues. Adoption of the amendment would authorize your officers and trustees to seek supplemental financial support through sustaining memberships."

The dues of a sustaining member are \$25.00 for each calendar year. The response to the appeal of the officers and trustees is indicated by the following list of those who have availed themselves of this new class of membership as of February 10:

### SUSTAINING MEMBERSHIP

Aberle, Fred	Burns, Robert S.
Allard, Joseph A., Jr.	Byrer, Clarence W.
Allen, A. G.	Callister, Reed E.
Altman, George T.	Cameron, Don R.
Anderson, Newton E.	Campbell, W. H.
Andrews, L. W.	Cannon, David H.
Archbald, Hon. H. R.	Carvell, Mae
Armstrong, Frank H.	Chambers, Hon. Joseph F.
Arnoldy, Fred N.	Chapman, John S.
Ashburn, Allen W.	Chapman, L. M.
Baddour, Joseph S.	Chase, Lucius K.
Bailie, Norman A.	Cherniss, Sidney A.
Baird, Charles R.	Clock, John G.
Barnes, Stanley N.	Cobb, Francis B.
Barrett, Vernon	Cochran, George I.
Bartlett, Hon. A. L.	Collins, Victor Ford
Beardsley, Charles E.	Crawford, Samuel J.
Belcher, Frank B.	Crider, Joe, Jr.
Bender, John F.	Crocker, Roy P.
Berger, Eugene M.	Crotty, Homer D.
Betts, Forrest A.	Crump, Hon. Guy Richards
Bischoff, Florence	Daniels, Earle M.
Black, Harold A.	Davis, Alex W.
Blalock, J. T.	Davis, Robert H.
Bluth, Edmund M.	Dempsey, Thomas R.
Bodkin, Henry G.	Dillon, R. J.
Bradley, James P.	Dolley, Chester F.
Bradner, B. J.	Donnelly, Charles
Brady, Joseph D.	Dryer, George W.
Brawner, W. H.	Dunn, Harry L.
Breslin, George M.	Ellis, Kimpton
Bridges, Gerald	Erb, Arthur L.
Bromley, Elmer P.	Faries, David R.
Burke, Martin J.	Farrand, George E.

Fischer, Arthur C.  
 Fogel, Moe M.  
 Freston, Herbert  
 Fussell, Paul  
 Galbreth, Hon. R. Morgan  
 Giesler, Jerry  
 Goodspeed, Richard C.  
 Hahn, Herbert L.  
 Haight, Raymond L.  
 Hails, Raymond R.  
 Hair, Arthur J.  
 Hankey, S. T.  
 Hanna, Byron C.  
 Haskins, S. M.  
 Hazlett, Hon. William  
 Heap, Leslie L.  
 Heffner, Dora Shaw  
 Helgoe, Calvin L.  
 Hibbard, Hudson P.  
 Hickson, Vincent C.  
 Hoag, Hallack W.  
 Huebner, Herbert A.  
 Huntsberger, Glen E.  
 Janeway, G. Harold  
 Jennings, Robert P.  
 Johnson, Earl E.  
 Karr, Frank  
 Katz, Charles J.  
 Kearney, J. L.  
 Kleindienst, Louis  
 Knight, F. A.  
 Knudson, Gerald R.  
 Knupp, Guy  
 Larrabee, Lawrence L.  
 Latham, Dana  
 Levy, Karl R.  
 Libby, Warren E.  
 Lion, Berge  
 Loeb, Joseph P.  
 Luddy, Michael G.  
 Luhning, John W.  
 Lyman, Edward D.  
 Macdonald, Alexander  
 Macfarland, J. C.  
 McGuire, J. Donald  
 Mackay, A. Calder  
 MacKay, Donald  
 Marchetti, Roger  
 Marshall, Daniel G.  
 Massey, Lloyd R.  
 Mathes, William C.  
 McCall, John E.  
 McClean, Harry J.  
 McDaniel, Ivan G.  
 McDowell, A. A.  
 McDowell, C. E.  
 McGaughey, Chalmers L.  
 McGregor, Arthur  
 Meserve, Shirley E.  
 Meyberg, Leonard J.  
 Millikan, C. E.  
 Milliron, Clark J.  
 Mitchell, M. F.  
 Mitchell, Shepard  
 Moidel, Isadore  
 Moore, Ewell D.  
 Morton, Harold C.  
 Mosk, Hon. Stanley  
 Moss, Oscar  
 Mullin, J. W., Jr.  
 Myers, Hon. Louis W.  
 Newlin, Gurney E.  
 Nichols, Chas. L.  
 Nilsson, George W.  
 Northrup, W. M.  
 Nossaman, W. L.  
 Nourse, Paul  
 Nutt, John Henry  
 O'Melveny, John  
 Overton, Eugene  
 Pacht, Hon. Isaac  
 Parker, Claude I.  
 Patterson, Robert S.  
 Pearce, Albert D.  
 Pinney, Warren B.  
 Plummer, Edna Covert  
 Pope, Hon. James H.  
 Porter, Jesse Bach  
 Praeger, Arnold  
 Prince, Henry F.  
 Proudfit, Robert W.  
 Rains, William M.  
 Reynolds, Howard W.  
 Riley, John T.  
 Robbins, Clay  
 Robinson, Verne E.  
 Rodi, Karl B.  
 Runkle, Clarence B.  
 Salisbury, Stuart M.  
 Scarborough, James G.  
 Schmidt, Hon. R. S.  
 Schulenberg, Orville A.  
 Schwarz, Robert F.  
 Sheppard, James C.  
 Sherman, Austin  
 Shinn, Hon. Clement L.  
 Shipman, Benjamin W.  
 Smith, Joseph  
 Smith, Ralph W.  
 Smith, W. P.  
 Solomon, Max M.  
 Sprague, William S.  
 Stern, Harold M.  
 Stratton, Carlos G.  
 Swaffield, Roland G.  
 Sweeney, R. D.

# PROFESSIONAL ETHICS

## OPINION NO. 148

(February 14, 1944)

**ARTICLES ON LEGAL SUBJECTS IN PERIODICALS.** An attorney with propriety may accept employment to prepare or check and revise articles of a general nature upon legal subjects for publication in newspapers, tax news letters or other periodicals.

**ADVERTISING AND SOLICITATION.** An attorney may properly accept employment from persons referred to him by the publisher of articles of a general nature on legal subjects prepared by the attorney, but the publication should contain nothing which might be construed as an invitation to the reader to retain the author of the articles.

An attorney writes that he is employed by a life insurance company as its general counsel; that the company desires to prepare and mail to a selected group of attorneys, life insurance underwriters, trust companies and other business concerns and individuals a monthly tax letter, which will stress tax problems involving community property, discuss current trends, recent cases and legislation; that the letter will contain a cautionary clause reading:

*"CAUTION: Proper estate analysis requires the services of your attorney, accountant, tax counsel, trust counsel and insurance counsel. Recommendations made herein should never be followed without competent advice as to their applicability to a particular set of facts."*

The attorney further advises that as a part of the services to the company he will check and approve the material that goes into the tax letter, but that his name will not appear on the letter, nor will any communications or literature referring to the letter mention his name. He submits the following questions:

1. Is it ethical and proper for the attorney to check

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Taylor, Edwin W.  
Toll, Maynard J.  
Triplett, Clyde C.  
Trippet, Oscar A.  
Turner, Richard A.  
Variel, Clarence  
Ward, Chandler P.  
Warne, Clore  
Watkins, Paul R.  
Watt, H. L.  
Weinstein, Benjamin T.

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Wellborn, Olin, III  
Welton, Donald O.  
Westenhaver, Robert E.  
Wilder, J. R.  
Willebrandt, Mabel Walker  
Williamson, William Roy  
Wood, Hon. John Perry  
Wright, Howard W.  
Wright, J. Marion  
Wright, Loyd  
Young, Omer Romanes

and approve the material to be contained in the tax letter?

2. In the event a member of the bar receives a copy of the tax letter and makes inquiry of the company as to whom it would recommend to carry out suggestions mentioned in the tax letter, interpret conclusions reached in the letter, etc., can the attorney ethically render services for or with such member of the bar in the event the company recommends the attorney?

3. In the event a recipient of the tax letter, who is not a member of the bar, asks the company to recommend counsel, may the attorney accept business referred to him by the company?

4. Assuming that the answers to the above three questions are in the affirmative, would it change any of the answers if the following language were put in the letter:

"The material herein contained has been checked by tax counsel specializing in tax matters in a community property state."?

Canon 40 of the Canons of Professional Ethics of the American Bar Association reads:

"A lawyer may with propriety write articles for publications in which he gives information upon the law; but he should not accept employment from such publications to advise inquirers in respect to their individual rights."

The American Bar Association Committee on Professional Ethics and Grievances has repeatedly expressed the view that consistent with Canon 40 an attorney may write and sell articles of a general nature upon legal subjects for publication in periodicals and trade journals. (See that Committee's Opinions 92, 98, 121, 162 and 168.) We share that view and are accordingly of the opinion that an attorney may properly accept employment either to write or to correct and revise an article or series of articles of a general nature upon legal subjects for publication in newspapers, tax news letters, or other periodicals.

It is assumed that the tax letter the company proposes to issue will deal generally with tax problems and the statutes, regulations and decisions applicable thereto, and not with the peculiar problems of any policy holder or prospective policy holder of the company. On that assumption, we think the first question should be answered in the affirmative.



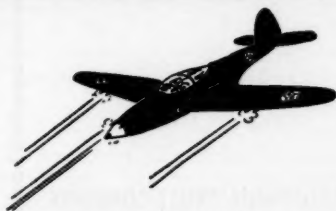
We are also of the opinion that the second and third questions should be answered in the affirmative if, as we understand the case to be, the attorney, as counsel for the company, will not be required to advise or assist the company to advise any reader of the tax letter with respect to his particular problems, and the company will not suggest that any reader, whether a layman or a member of the bar, employ the attorney except when the reader requests the company to recommend counsel who specializes in tax matters.

The inclusion in the tax letter of the statement quoted in the fourth question might not *per se* require qualification of the above-indicated answers to the first three questions. It is the view of the Committee, however, that the quoted statement is objectionable in that it might be construed by some reader as an invitation to consult the tax counsel who checked the material contained in the letter. Advertising or touting by or on behalf of an attorney, no matter how indirect or subtle, cannot be countenanced. We think the only legitimate purpose which could be served by a statement such as that quoted would be to caution the reader to seek independent advice and to suggest non-

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responsibility on the part of the company for inaccuracies in the material contained in the tax letter. The quoted statement does not clearly indicate that such is its purpose. It is believed, therefore, that the statement either should be eliminated entirely or revised and incorporated in the other cautionary clause so that such clause would read substantially as follows:

*"CAUTION:* The material herein contained has been checked by tax counsel specializing in tax matters in a community property state and is believed to be accurate, but no reader should rely upon statements or recommendations made herein without advice from counsel of his own selection as to their applicability to his peculiar problem. Proper estate analysis requires the services of your attorney, accountant, tax counsel, trust counsel and insurance counsel."

This opinion, like all opinions of this Committee, is advisory only. (By-laws, Art. VIII, Sec. 3.)

#### COMMITTEE ON LEGAL ETHICS

By EDWIN W. TAYLOR, *Chairman.*

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## RULES GOVERNING THE LAWYERS REFERENCE SERVICE

of the

### LOS ANGELES BAR ASSOCIATION

Adopted May 22, 1940

(As amended to February 16, 1944)

(1) The term "Association" is employed herein to designate the Los Angeles Bar Association; the term "Applicant" to designate each lawyer or layman who shall apply to the Association for reference to a lawyer; the term "Registrant" to designate each lawyer who has applied for registration or whose name is registered for references through the Lawyers Reference Service; and the term "Service" to designate the Lawyers Reference Service of the Los Angeles Bar Association.

(2) It shall be the purpose of the Lawyers Reference Service to serve laymen, and members of the profession as well, by placing in touch with each other:

- (a) Members of the profession seeking a specialist or a lawyer experienced in a particular field of the practice;
- (b) Laymen of the lower income groups seeking a lawyer who is willing to serve them for a relatively low fee within their means; and
- (c) Other laymen seeking a lawyer in a particular field.

(3) Any member in good standing of The State Bar of California engaged in active practice of the Law in Los Angeles County may apply for registration under the Service by signing and filing at the office of the Association a "Registration Form" to be provided by the Association.

(Amended January 7, 1942.)

(4) Each registrant under the Service shall pay to the Association an annual registration fee of \$3. The first annual registration fee shall accompany each applicant's "Registration Form" for original registration under the Service. Each year thereafter, so long as he shall continue registered under the Service, each applicant shall pay, on or before the anniversary date of his original registration, the annual registration fee. The Association may, by order of a majority of the members of its Board of Trustees, refund all or any part of any registration fee; but the Association shall never, under any circumstances, be obligated to return or refund all or any part of any registration fee.

All fees received by the Association from registrants under the Service shall be placed in a separate Association fund designated as the "Lawyers Reference Service Fund." Said fund shall be used and expended for the sole purpose of maintaining, operating and publicizing the Lawyers Reference Service.

(Amended January 7, 1942.)

(5) There shall be maintained at the office of the Association three card indexes, as follows:

- (a) One (of blue cards) to be used exclusively for references in response to inquiries from members of the profession, which shall contain the name of each lawyer who shall register as experienced in a field in which he feels qualified to advise other lawyers who lack experience in such field;
- (b) A second index (of salmon cards) to be used exclusively for references in response to inquiries from those lay-applicants of small means who must have a lawyer willing to serve them for a relatively small fee, which shall contain the names of those lawyers who shall register as being willing to handle relatively small matters, including those involving litigation, wherein the total fee is estimated not to exceed \$25 either by reason of the nature of the matters themselves, or by reason of the inability of the clients to pay larger fees;
- (c) A third index (of white cards) to be used exclusively for references in response to the inquiries of all other lay-applicants, which shall contain the names of all lawyers who shall register for lay references pursuant to these rules.

Each index shall be classified according to fields of practice represented, and sub-classified according to location of registrants' offices, as disclosed by the "Registration Form" filed by each registrant.

(Amended May 4, 1943.)

(6) The Association reserves the right, by order of a majority of the members of its Board of Trustees, to reject any application for registration, or to remove the name of any registrant from any index at any time. The Executive Secretary of the Association shall promptly notify by registered mail each registrant whose application for registration shall be rejected or whose name shall be removed from any index.

(7) Any registrant so desiring shall be permitted to withdraw his registration from the Service, or from any index thereof, or from any field of the practice classified therein, at any time upon five days' written notice to the Association.

(8) A roster of all registrants under the Service, listed in alphabetical order, shall be compiled and kept at the office of the Association. Opposite the name of each lawyer in such roster shall appear a list of the fields of the practice under which he is registered.

(9) Subject to Rule 6 hereof, the various cards comprising the three indexes described in Rule 5 shall be compiled from the information given on executed "Registration Forms" received at the office of the Association. Such cards shall be filed in the appropriate index under the proper field of the practice, in the same order in which the "Registration Forms" are received.

(10) No lawyer shall be registered in any index maintained

by the Service under more than four fields of the practice of the law, in addition to registration as a trier of contested cases in one or more of such fields; provided, however, that nothing herein contained shall prevent any lawyer from being registered in more than one of the three reference indexes described in Rule 5.

(11) No lawyer shall be registered as experienced in a field in which he feels qualified to advise other lawyers who lack experience in such field, unless such registrant shall agree to consult with and advise members of the profession who lack experience in such field, for an agreed fee of twenty-five dollars in each matter, to cover one or more conferences not exceeding in the aggregate more than two hours of the consultant's time.

(12) No lawyer shall be registered in the index of those lawyers willing to serve laymen in a particular field, unless such registrant shall agree to render professional services for each layman referred by the Service upon the following fee basis:

- (a) A maximum charge of three dollars, payable in advance, to cover a first conference consuming not more than one-half hour;
- (b) A maximum charge of five dollars to cover a first conference

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- (c) With the understanding that the charges above specified cover conference and advice only, and do not include the preparation of letters or any legal papers;
  - (d) With the further understanding that all compensation for any further services will be subject to written agreement with the client;
  - (e) With the further understanding that in all such matters wherein compensation is contingent upon a recovery, the total fees will in no event exceed 40% of the total or gross recovery; and
  - (f) With the further understanding that if any dispute over fees should arise between the lawyer and any client referred by the Service, and the client so requests, such dispute will be submitted to the Arbitration Committee of the Association for final determination.

(12-a) No lawyer shall be registered in the index of those lawyers willing to serve laymen in the preparation of Income Tax Returns, unless such registrant shall agree to render professional service for each layman referred by the Service in such matters upon the following fee basis:

- (a) A charge of \$5, payable in advance, to cover preparation of an Individual Income Tax Return in the ordinary case, where the taxpayer's gross income for the taxable year does not exceed \$3,500;
- (b) A charge of from \$5 to \$15, payable in advance, to cover preparation of an Individual Income Tax Return in the ordinary case, where the taxpayer's gross income for the taxable year exceeds \$3,500;
- (c) Since many Income Tax Returns present intricate legal questions requiring additional time, it is understood that an added charge, covering such additional time, is entirely proper and necessary in those cases;
- (d) The "ordinary case," specified in (a) and (b), is one which does not involve any legal problem as to community property, property settlement agreement, alimony, annuity, the income of a minor, or comparable matters, and does not require treatment of a capital gain or loss, depreciation, or other extraordinary deductions or exemptions, or the preparation of special schedules;
- (e) Except as above stated, all references shall be upon the fee basis provided in Rule 12, and shall otherwise be subject to all the rules governing the Lawyers Reference Service.

(Added February 16, 1944.)

(13) No lawyer shall be registered in the index of those lawyers willing to serve persons of small means, unless such registrant shall make, in addition to the agreements provided in Rule 12 with respect to fees, the further agreement to handle matters (including those involving litigation) referred to him through the Service, wherein the total fee is estimated at the office of the Association, as a result of discussion with the lay

applicant, not to exceed twenty-five dollars either by reason of the nature of the matters themselves, or by reason of the financial inability of the client to pay larger fees.

(14)

- (a) Upon written or oral application by any laymen to the office of the Association, the names of five registrants first in order under the field of practice indicated by the applicant's inquiry, together with their respective office addresses and telephone numbers, shall be given to such applicant. If the names of fewer than five lawyers appear registered under the particular field indicated, then the names of all lawyers registered under that field shall be given to the applicant. Provided, however, that the names of only two registrants need be given in response to each application for a reference under the field "Preparation of Income Tax Returns";
- (b) Such information shall be given in writing upon a form "Letter of Information" to be provided by the Association. Whenever the conveniences of any lay-applicant shall so require, such information may be given by telephone, provided the information thus given be confirmed in writing upon a form "Letter of Information" issued and mailed to the applicant as soon as possible thereafter, and in all events on the same day. A copy of each "Letter of Information" shall be kept and filed chronologically in the office of the Association;
- (c) The index cards of the registrants whose names appear on each successive "Letter of Information" shall be placed forthwith in inverse order to the rear of all other index cards under that particular field of practice. And the names of the registrants whose cards are next in order under that field shall be furnished to the next applicant seeking similar service—it being the intention to rotate in succession the names of registrants under each field of practice, so that no registrant's name shall appear a second time at the head of the names listed on a "Letter of Information" until after the name of every other registrant under that particular field of practice shall have appeared first on a "Letter of Information";
- (d) Whenever an applicant shall request reference to a lawyer maintaining offices in a specified neighborhood, community, town

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or city within Los Angeles County, the names of registrants first in order under the field of practice indicated, who maintain offices in the locality specified by the applicant, shall be given as provided in sections (a) and (b) hereof; and the names of such registrants shall be rotated in the manner provided in section (c) hereof.

(Amended April 13, 1943; May 4, 1943; February 16, 1944.)

(15) Upon written or oral application by any member of the profession to the office of the Association, there shall be made available to such applicant the names, office addresses and telephone numbers of all registrants under any field of the practice in which the applicant may be interested.

Such information may be given to lawyer-applicants by telephone, provided the information thus given be confirmed in writing upon a form "Letter of Information (for Lawyers only)" to be provided by the Association. In all instances where such information is furnished to lawyer-applicants by telephone, the confirmation "Letter of Information" shall be mailed to such applicant as soon as possible thereafter and in all events on the same day. A copy of each "Letter of Information (for Lawyers only)" issued shall be kept and filed chronologically in the office of the Association.

The index cards of those registered under any particular field of the practice shall be rotated in succession so that no registrant's name shall appear a second time at the head of the names listed on a "Letter of Information (for Lawyers only)" until after the name of every other registrant under that particular field of practice shall have appeared first on a "Letter of Information (for Lawyers only)."

(16) Whenever the applicant shall execute a "Request for Reference Letter" on the form provided by the Association, then the office of the Association shall arrange an appointment with any lawyer chosen by the applicant from among those listed on the "Letter of Information," and shall deliver to such applicant a "Reference Letter" addressed to the lawyer so chosen.

The "Request for Reference Letter" shall be addressed to the Association, shall state the name of the lawyer chosen by the applicant from among those listed in the "Letter of Information," and shall request the Association to arrange an appointment with such lawyer for such applicant, and to issue a "Reference Letter" to such applicant.

Each "Reference Letter" shall state the name and address of both the applicant and the lawyer he has chosen, and shall confirm the date and hour of such appointment as shall have been previously made on behalf of the applicant.

A copy of each "Request for Reference Letter" executed by any applicant, and of each "Reference Letter" issued by the

Association, shall be kept in the files of the Association.

(17) The Association reserves the right to decline to make the facilities of the Service available to any person.

(18) Each registrant shall keep a record of the name of each client referred to him through the Service, the approximate date of the reference, the general nature of the matter referred, and the total fee received, and shall report such information to the Association upon written request therefor.

(19) Each registrant shall be guided, governed and bound by the Canons of Professional Ethics of the American Bar Association.

(20) No lawyer shall in any event be registered under the Service unless and until he shall warrant that he is a member in good standing of The State Bar of California engaged in active practice of the law in Los Angeles County and shall agree, in consideration of the Association's maintenance of the reference service described in these rules, that the information contained in the "Registration Form" may be furnished to both professional and lay applicants in the operation of the Service by the Association; that his name may be classified in the Service as the Board of Trustees of the Association shall direct; that his name may

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be withdrawn from any or all classifications of the Service at any time, in the discretion of a majority of the members of the Board of Trustees, provided that he himself shall be permitted to withdraw his registration from any or all classifications of the Service at any time upon five (5) days' written notice to the Association; that so long as he shall continue registered under the Service he will pay to the Association each year, on or before the anniversary date of his original registration, the annual registration fee; that he will abide by all rules of the Service which may be promulgated by the Association; and that he will in no event hold or claim to hold the Association or any officer, trustee, member or employee thereof to any liability whatever in connection with the operation of the Service or the use of the information contained in the "Registration Form."

(Amended January 7, 1942.)

(21) The Association reserves the right, by order of a majority of the members of its Board of Trustees, to amend or repeal any of the rules governing the Lawyers Reference Service, and to adopt other and additional rules to govern the Service.

(Added January 7, 1942.)

## WHEN PROPERTY DAMAGE ACCRUES

By Frank G. Tyrrell,

Judge of the Municipal Court, Los Angeles

Counsel defending a suit for damages to personal property sometimes overlook a fundamental rule, as to when such damages accrue. It finds clear statement in the case of *Kincaid v. Dunn*, reported in 26 Cal. App. 686, opinion by Shaw, J., concurred in by Conrey and James, Justices. Reading from page 688,—

"While it is true, as contended by appellants, that no recovery can be had in personal injury suits for services rendered by physicians in attending the injured unless such bills have been paid, or at least liability incurred therefor, such rule does not apply in an action to recover for damages to personal property. In the one case the damages are special and can only arise out of the fact that the expense has been incurred and constitutes a liability against the plaintiff whereas in the other the action is for general damages."

The case is cited and followed in at least one other,—*Harlow v. Motor Coach Co.*, 128 Cal. App. 487. (By the way, Shepard's volumes do not show this.) There, the opinion is written by Craig, J., concurred in by Works and Stephens, Justices. This

opinion refers to the fact that the trial court found as a fact "that the plaintiff's automobile was damaged in the sum of \$211.30 by the same negligent acts of the defendants, and 'that the plaintiff did not pay the cost of said repairs nor incur any liability by reason thereof.'"; and then says,—

"Since the difference in value of the car before and following the occurrence was established by competent evidence, and was so found by the trial court, the rule requiring payment or the incurring of actual liability, as in actions founded upon personal injuries does not apply, and the portion of the findings above quoted is surplusage. (*Kincaid v. Dunn, supra.*) The evidence tending to show such damage was not controverted, and the omission thereof from the judgment was obviously error, requiring a reversal in this respect."

The inference is, that, in an action to recover for damages to personal property, it makes no difference who paid for them, or whether they have been paid or not; the plaintiff is entitled to recover, if proved, in any event. The Ten Year Supplement to Cal. Jur., volume 2, page 94, has this statement:

"However, payment, or the incurring of liability need not be shown where competent evidence establishes the difference between the value of the vehicle before and after the collision. The rule governing recovery on account of personal injuries does not apply to this situation;" citing only the last case mentioned above, *Harlow v. Motor Coach Co.*

The rule requires, of course, that there be evidence showing the depreciation in value of the car damaged. This may be indicated by the cost to repair, or it may be more or less than that amount. In case it is less, this is a matter for the defendant to attend to. The Ten Year Supplement discusses also the various details of what evidence is required, and points out what is admissible and what is inadmissible (pp. 94, 95).

The conclusion of this comment is simply that it is not always necessary for the plaintiff whose car has been damaged to show that he has paid the damages, or become liable to pay them; in fact, payment becomes altogether immaterial and irrelevant. Did the damage accrue?—and how much?

## NEWS OF THE SECTIONS

### *Criminal Law Section* (Gerald Desmond, Reporter).

On January 24, 1944, the Section was addressed by Judge Arthur Guerin. On January 10th the Section was addressed by United States Attorney Charles H. Carr and Henry G. Bodkin, with respect to the parts played in criminal cases by the prosecution and the defense.

### *Torts, Persons and Domestic Relations Section* (A. James Ayers, Reporter).

On February 9, 1944, this Section heard a paper by County Law Librarian Thomas S. Dabagh, on "Research in the Field of Torts." On January 26th, Court Commissioner Harold C. Shepard addressed the Section, discussing "Solved and Unsolved Problems About the Soldiers' and Sailors' Civil Relief Act," and emphasized the problems most frequently presented to the court. On January 12, 1944, Lawrence L. Otis, associate counsel for the Title Insurance and Trust Company, reviewed the Soldiers' and Sailors' Civil Relief Act, stressing the interpretation thereof in recent cases. At a previous meeting Judges Charles E. Haas, Roy V. Rhodes, and Henry M. Willis presented and discussed problems in the annulment of marriages, and urged the repeal of the interlocutory decree in divorce cases.

### *Probate Real Property and Trusts Section* (Robert Hecht, Reporter).

The third meeting of the Section was held on February 16, 1944, at 7 P. M., in Department 1 of the Superior Court, 806 Hall of Records, and was addressed by John K. Tompkins, chief escrow officer of the Title Insurance and Trust Company, with respect to "Escrows and Escrow Procedure." The subject of community property was concluded at the previous meeting with the presentation by Ralph W. Miller of a paper entitled "Joint Tenancy as Related to Community Property," and an address by Probate Commissioner Florence M. Bischoff on "Community Property Problems Incident to Probate."

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